

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

CRP.No. 227 of 2007()

OPEA.549/2006 of ADDL.DIST. JUDGE,ALAPPUZHA.

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REVISION PETITIONERS/RESPONDENTS

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE,NANGIARKULANGARA,KAYAMKULAM, REP.
BY ITS MANAGER.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENT:/PETITIONER

NANDAKUMAR,S/O.GOPINATHA PANICKAR,
SASTHAMANGALAM HOUSE,CHINGO VILLAGE,KARTHIKAPPALLY
TALUK,REP.BY POWER OF ATTORNEY HOLDER,KESAVA PILLA
S/O.GOPINATHA PANICKER, -DO-

BY ADV. SMT.VILASINI NAYAK

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

ORDER ON IA 791/07 IN CRP 227/07

DISMISSED

SD/- M.N.KRISHNAN,JUDGE

16/10/2007

M.N.Krishnan, J.

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C.R.P.No.227 of 2007

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Dated this the 16th day of October, 2007.

ORDER

This revision petition is preferred against the order of the Additional District Judge, Alappuzha in O.P.(EA) No.549 of 2002. The court below had granted an additional compensation of Rs.47,012/-. The court below had relied upon the decision of this Court reported in **Kumba Amma** v. **K.S.E.B.**- 2000(1) K.L.T. 542. Basing on that decision, the court held that the petitioner is entitled to annuity factor on the basis of 5% return and calculated the amount in the light of the above decision.

2. Now the Apex Court in the decision reported in **K.S.E.B.** v. **Livisha** -2007(3) K.L.T.1, held that each case has to be considered separately depending upon the facts and circumstances of each case and further held that the situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors would be determinative. The value of the land would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as

the compensation in relation to fruit bearing trees are concerned, the same would also depend upon the facts and circumstances of each case. Therefore, in the light of this pronouncement by the Apex Court, the matter requires consideration at the hands of the court below on the points mentioned above.

3. Therefore, the order under challenge is set aside and the matter is remitted back to the court below for fresh consideration in the light of the enunciated principles laid down in **K.S.E.B.** v. **Livisha** - 2007(3) K.L.T. 1. The parties are at liberty to adduce additional evidence in support of their respective contentions and the court below shall dispose of the matter after hearing both parties. Parties are directed to appear before the court below on 17.11.2007.

Civil Revision Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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